

Appl. No. : **10/624,111**
Filed : **July 21, 2003**

COMMENTS

Claims 1-26 remain pending in the present application, Claims 1, 3, 4, 8, 9, 12, 14, and 16 having been canceled amended. The claims set forth above include marking to show the changes made by way of the present amendment, deletions being in ~~strikeout~~ and additions being underlined.

Applicants would initially like to thank Examiner Avila for the courteous interview extended to Applicants' counsel, Michael Giuliana, on July 29, 2004, during which the outstanding rejections were discussed. In particular, Applicants' counsel pointed out that the cited references fail to teach an engine controller in which power output is manipulated in a way such that power output is raised until a modified or filtered engine speed falls below a predetermined value. Applicants have amended the claims along the lines discussed during the interview, which the Examiner agreed would overcome the outstanding rejections. On the basis of the interview and in response to the Office Action mailed June 2, 2004, Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments.

Claims 3-9, 12-14, 16, and 17 Are In Condition For Allowance

The Examiner indicated that Claims 3-9, 12-14, 16, and 17 would be allowable if amended into independent form. The amendment to Claims 3, 4, 8, 9, 12, 14, and 16 rewrites these claims to stand on their own. Claims 5-7, 13, and 17 depend from Claims 3, 12, or 16. Thus, Claims 3-9, 12-14, 16, and 17 are now in condition for allowance.

Eichinger Does Not Anticipate Claims 1, 2, or 10

Claims 1, 2, and 10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,390,862 issued to Eichinger. Applicants respectfully traverse the present rejection. However, in order to expedite prosecution of the present application, Applicants have amended Claims 1 and 10 as agreed during the interview to overcome the present rejection. Thus, the present rejection is now moot. Applicants also expressly reserve the right to further prosecute the original versions of Claims 1, 2, and 10 through continuation practice.

The Applied Combination of Eichinger/Michel et al. Does Not Make Obvious

Claims 11 and 15

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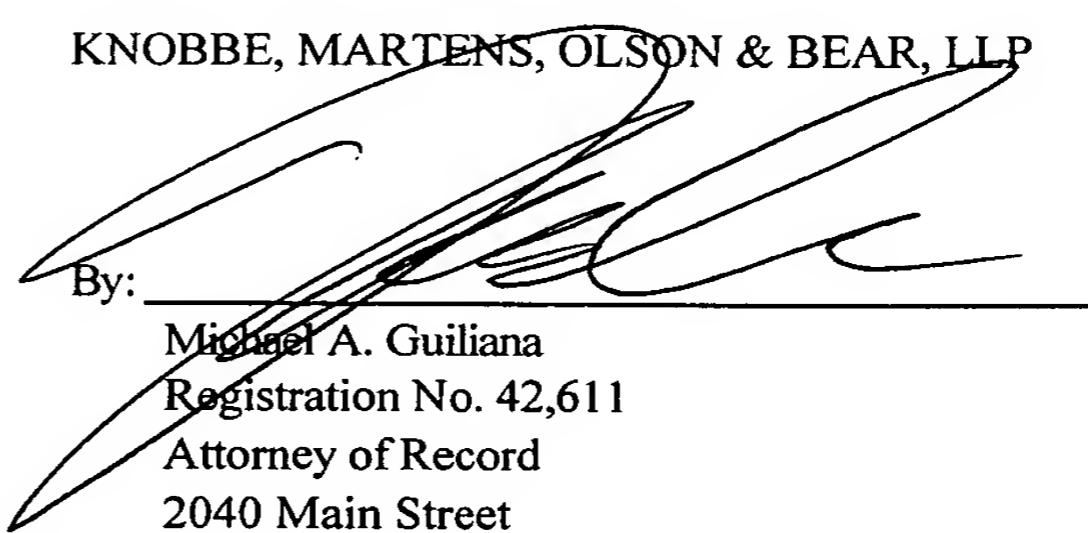
Claims 11 and 15 stand rejected under 35 U.S.C. § 103(a) as being obvious over Eichinger in view of U.S. Patent No. 6,428,371 issued to Michel et al. Applicants respectfully traverse the present rejection. However, in order to expedite prosecution of the present application, Applicants have amended Claims 10 (from which Claim 11 depends) and 15 as agreed during the interview to overcome the present rejection. Thus, the present rejection is now moot. Applicants also expressly reserve the right to further prosecute the original versions of Claims 1 and 15 through continuation practice.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney in order to resolve such issue promptly.

Respectfully submitted,

Dated: MM 07/2/04 By: 
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